

Message Text

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FM SECSTATE WASHDC

TO AMEMBASSY GUATEMALA IMMEDIATE

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E.O. 11652: N/A

TAGS:ETRN, GT, US

SUBJECT: DELTA-FLOMERCA SHIPPING PROBLEM

1. DELTA LINES INFORMED THE DEPARTMENT THAT THE FLOMERCA BOARD OF DIRECTORS BY RESOLUTION HAS DENIED WRITTEN OFFICIAL WAIVERS TO INDUSTRIA PAPELERA CENTRO-AMERICANA FOR TWO WASTE PAPER SHIPMENTS CARRIED BY THE DELTA URUGUAY TO SANTO TOMAS AND THE MINISTRY OF ECONOMICS, APPARENTLY IN ACCORDANCE WITH ARTICLE 5, OF DECREE NO. 41-71, ASSESSED A PENALTY OF APPROXIMATELY 50,000 DOLLARS (50 PERCENT OF FREIGHT PAID ON THESE SHIPMENTS). DEPARTMENT UNDERSTANDS VERBAL WAIVERS WERE GIVEN BY FLOMERCA FOR THESE "EXONERATED" SHIPMENTS ON DELTA (FROM PORT ARTHUR BECAUSE OF THE UNAVAILABILITY OF A GUATEMALAN-FLAG VESSEL WITH 15 DAY PERIOD AND FROM NEW ORLEANS BECAUSE OF FLOMERCA'S INABILITY TO LOAD PAPER CARGO ON ITS VESSEL DUE TO CONGESTION AT FLOMERCA DOCK), WHICH REPORTEDLY IS THE USUAL PROCEDURE AS WRITTEN AUTHORIZATION IS NOT GIVEN BY FLOMERCA UNTIL AFTER THE CARGO IS UNLOADED IN GUATEMALA. DELTA STATES GUATE-

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MALA CUSTOMS WILL NOT RELEASE THESE SHIPMENTS UNTIL THE

PENALTY QUESTION IS RESOLVED. IN THE MEANTIME, INDUSTRIA PAPELERA CENTRO-AMERICANA IS LIABLE FOR COSTLY WHARFAGE CHARGES. MOREOVER, RICARDO QUEZADA REPRESENTATIVES, DELTA'S GUATEMALA AGENT, REPORTED TO DELTA THAT MR. BARILLAS, ASSISTANT MANAGING DIRECTOR OF FLOMERCA,

STATED THE BOARD'S RESOLUTION DENYING WRITTEN WAIVERS WILL APPLY TO VERBALLY WAIVED "EXONERATED" SHIPMENTS ON THE DELTA ARGENTINA WHICH IS SCHEDULED TO CALL AT SANTO TOMAS FEBRUARY 17.

2. IT SEEMS LIKELY THAT THIS ACTION BY FLOMERCA IS DIRECTLY RELATED TO OUTSTANDING FMC PENALTY CLAIM AGAINST FLOMERCA AND CCT FOR VIOLATION OF SECTION 15, SHIPPING ACT, 1916, AS WELL AS THE CONTINUING DELTA-FLOMERCA PROBLEM. THE FMC REPORTS THAT THE MOST RECENT MEETING WITH FLOMERCA'S US ATTORNEYS WAS INCONCLUSIVE, AND THE FMC ACCEDED TO THE LATTER'S REQUEST FOR ADDITIONAL TIME TO PREPARE THEIR POSITION. ANOTHER MEETING IS SCHEDULED NEXT MONTH. MOREOVER, DEPARTMENT ALSO UNDERSTANDS THAT DURING FMC VISIT, FLOMERCA'S LAWYERS LEARNED THAT DELTA FILED COMPLAINT REGARDING GUATEMALAN DISCRIMINATORY PRACTICES, AND THE FMC IS CONSIDERING POSSIBLE SECTION 19 ACTION TO REDRESS THE SITUATION.

3. ACTION REQUESTED: THE EMBASSY IS REQUESTED TO INVESTIGATE ACTIONS DESCRIBED IN PARA 1, ABOVE, AND IF THE SITUATION IS AS REPORTED BY DELTA, TAKE WHATEVER STEPS IT DEEMS MOST APPROPRIATE IN AN EFFORT TO RESOLVE PROBLEM. IN THIS REGARD, THE EMBASSY IS AWARE THAT THE DEPARTMENT HAS OBTAINED THE COOPERATION OF THE FMC IN NOT MOVING AHEAD ON THE DELTA-FLOMERCA PROBLEM UNTIL AFTER THE ELECTIONS. HOWEVER, THIS DEVELOPMENT, IF SUBSTANTIATED AND THEREAFTER NOT QUICKLY AND SATISFACTORILY DEALT WITH, COULD POSSIBLY FORCE ACTION ON THE PART OF THE FMC EARLIER THAN EXPECTED OR DESIRED. PLEASE ADVISE. RUSH

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